UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA

Pitre v. KeVita, Inc.

No. 24-cv-06309-JST, Order Granting Motion to Dismiss (N.D. Cal. Aug. 8, 2025) · No. 24-cv-06309-JST · Decided August 8, 2025

SUMMARY

The United States District Court for the Northern District of California granted KeVita, Inc.’s motion to dismiss Yolanda Pitre’s claims under California’s Consumer Legal Remedies Act, False Advertising Law, and Unfair Competition Law. The court held that the scientific study cited in the amended complaint did not support Pitre’s allegation that the product required at least 10 grams of gum arabic to provide a prebiotic benefit, and therefore the misrepresentation and deception theories were not plausibly pleaded. The court granted leave to amend within 21 days and declined to dismiss Pitre’s requests for injunctive and other equitable relief at the pleading stage.

CASE DETAILS

COURT	United States District Court for the Northern District of California
WRITING FOR THE COURT	Jon S. Tigar
JURISDICTION	United States District Court for the Northern District of California
DECIDED	August 8, 2025
DOCKET	24-cv-06309-JST
DISPOSITION	other
PROCEDURAL POSTURE	Defendant moved under Federal Rule of Civil Procedure 12(b)(6) to dismiss an amended putative class action complaint asserting claims under California's Consumer Legal Remedies Act, False Advertising Law, and Unfair Competition Law.
STANDARD OF REVIEW	On a Rule 12(b)(6) motion, the court accepts well-pleaded factual allegations as true and asks whether the complaint states a plausible claim for relief. Claims grounded in fraud must also satisfy Rule 9(b)'s particularity requirement.
PRECEDENTIAL VALUE	unpublished district court order
PARTIES	Yolanda Pitre v. KeVita, Inc.

TOPICS

consumer protection · deceptive trade practices · motions to dismiss · pleadings · injunctions

PRACTICE AREAS

consumer protection · civil procedure · false advertising · food and beverage labeling · equitable remedies

QUESTIONS PRESENTED

1. Whether the amended complaint plausibly alleged that KeVita's advertising and labeling were false or misleading under the CLRA, FAL, and UCL.
2. Whether the challenged label statements were nonactionable puffery.
3. Whether Pitre plausibly stated claims under the unlawful, unfair, and fraudulent prongs of the UCL.
4. Whether Pitre had Article III standing to seek injunctive relief.
5. Whether Pitre could seek restitution and disgorgement as equitable relief at the pleading stage.
6. Whether the court could consider product labels and scientific publications through judicial notice or incorporation by reference.

HOLDINGS

1. The amended complaint failed to plausibly allege that KeVita's product contained too little prebiotic fiber or too much added sugar to provide gut-health benefits because the study cited in the complaint did not establish that ten grams of gum arabic was a minimum effective dose.
2. Although deception ordinarily presents a factual question, dismissal at the pleading stage was appropriate in this rare case because Pitre had not plausibly alleged the factual premise necessary to show that the product's gut-health representations were misleading.
3. The statement "your tummy and taste buds will thank you!" could not be treated as nonactionable puffery at the pleading stage because, viewed in context with the product's repeated references to prebiotics and gut health, the label plausibly represented that the product promoted digestive health.
4. Pitre failed to state a UCL claim under any of the unlawful, unfair, or fraudulent prongs because each theory depended on the unsupported allegation that consumers had to drink more than three cans of the product to obtain a gut-health benefit.
5. A previously deceived consumer may have Article III standing to seek injunctive relief against allegedly false advertising or labeling when she plausibly alleges that she would like to purchase the product in the future but cannot rely on its advertising or labeling.
6. The court declined to dismiss Pitre's requests for restitution and disgorgement because, at the pleading stage, a plaintiff may plead that legal remedies are inadequate or plead equitable claims in the alternative.
7. The court considered the two studies and article at issue under the incorporation-by-reference doctrine because the parties agreed that the documents could be considered, but declined to consider the

remaining studies because Pitre did not show that they were described in or integral to the amended complaint.

KEY QUOTATIONS

> *"The study did not establish a minimum effective dose."* (Section IV.B)

> *"Taken in that context, the label as a whole makes representations about the impact of its prebiotics on "gut health.""* (Section IV.D)

> *"The Court finds Pitre has Article III standing to seek injunctive relief."* (Section IV.F.1)

FACTUAL BACKGROUND

KeVita manufactures and sells a beverage labeled "Sparkling Lemonade with Prebiotics" and displaying statements including "prebiotics for gut health" and "your tummy and taste buds will thank you!" Pitre purchased the product believing its prebiotics would benefit gut health. She alleged that each can contained three grams of acacia-derived dietary fiber and four grams of added sugar, and that more than three cans would be needed to reach the dosage discussed in a study concerning potential prebiotic effects of gum arabic. The court concluded that the study did not support Pitre's allegation that ten grams of fiber was necessary to obtain a gut-health benefit.

PROCEDURAL HISTORY

Pitre filed the action on September 6, 2024 and filed an amended complaint on October 30, 2024. KeVita moved to dismiss the amended complaint. The court granted the motion but allowed Pitre 21 days to amend solely to correct the deficiencies identified in the order; otherwise, the action would be dismissed with prejudice.

DISPOSITION

other

CASES CITED

- Knievel v. ESPN, 393 F.3d 1068, 1072 (9th Cir. 2005)
- Mendiondo v. Centinela Hosp. Med. Ctr., 521 F.3d 1097, 1104 (9th Cir. 2008)
- Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009)
- Bell Atl. Corp. v. Twombly, 550 U.S. 544, 555, 556-557, 570 (2007)
- Davidson v. Kimberly-Clark Corp., 889 F.3d 956, 964, 967, 969-970 (9th Cir. 2018)
- In re Arris Cable Modern Consumer Litig., No. 17-cv-01834-LHK, 2018 WL 288085, at *8 (N.D. Cal. Jan. 4, 2018)
- Kearns v. Ford Motor Co., 567 F.3d 1120, 1126 (9th Cir. 2009)
- Peviani v. Nat. Balance, Inc., 774 F. Supp. 2d 1066, 1071 (S.D. Cal. 2011)
- Haskins v. Symantec Corp., No. 13-cv-1834-JST, 2013 WL 6234610 (N.D. Cal. Dec. 2, 2013)
- Bruton v. Gerber Prods. Co., No. 12-cv-02412-LHK, 2014 WL 172111, at *5 (N.D. Cal. Jan. 15, 2014)

- Graham v. Cent. Garden & Pet Co., No. 22-cv-06507-JSC, 2023 WL 2744391, at *2 (N.D. Cal. Mar. 30, 2023)
- Housey v. Procter & Gamble Co., No. 21 Civ. 2286 (NRB), 2022 WL 874731, at *6 (S.D.N.Y. 2022), aff'd, 2022 WL 17844403 (2d Cir. 2022)
- Eckler v. Wal-Mart Stores, Inc., No. 12-CV-727-LAB-MDD, 2012 WL 5382218, at *7 (S.D. Cal. 2012)
- Becerra v. Dr Pepper/Seven Up, Inc., No. 17-CV-05921-WHO, 2018 WL 1569697, at *1, *6-*7 (N.D. Cal. Mar. 30, 2018)
- Becerra v. Coca-Cola Co., No. C 17-05916 WHA, 2018 WL 1070823, at *4 (N.D. Cal. Feb. 27, 2018)
- Williams v. Gerber Prods. Co., 552 F.3d 934, 938-939 (9th Cir. 2008)
- Lavie v. Procter & Gamble Co., 105 Cal. App. 4th 496, 508 (2003)
- Salazar v. Target Corp., 83 Cal. App. 5th 571, 584 (2022)
- Krommenhock v. Post Foods, LLC
- Salazar v. Honest Tea, Inc., 74 F. Supp. 3d 1304, 1316 (E.D. Cal. 2014)
- Andrade-Heymsfield v. NextFoods, Inc., No. 3:21-CV-1446-BTM-MSB, 2023 WL 2576770, at *1-*4 (S.D. Cal. Mar. 20, 2023)
- Aton Ctr., Inc. v. United Healthcare Ins. Co., 93 Cal. App. 5th 1214, 1248 (2023)
- Capito v. San Jose Healthcare Sys., LP, 17 Cal. 5th 273, 284 (2024)
- Zhang v. Superior Court, 57 Cal. 4th 364, 380 n.9 (2013)
- Smith v. State Farm Mut. Auto. Ins. Co., 93 Cal. App. 4th 700, 718-719 (2001)
- Summers v. Earth Island Inst., 555 U.S. 488, 493 (2009)
- Ries v. Arizona Beverages USA LLC, 287 F.R.D. 523, 533 (N.D. Cal. 2012)
- Lilly v. Jamba Juice Co., No. 13-cv-02998-JST, 2015 WL 1248027, at *4 (N.D. Cal. Mar. 18, 2015)
- Sonner v. Premier Nutrition Corp., 971 F.3d 834 (9th Cir. 2020)
- Warren v. Whole Foods Mkt. Cal., Inc., No. 21-cv-04577-EMC, 2022 WL 2644103, at *9 (N.D. Cal. July 8, 2022)
- Brown v. Van's Int'l Foods, Inc., No. 22-cv-00001-WHO, 2022 WL 1471454, at *13 (N.D. Cal. May 10, 2022)
- United States v. Ritchie, 342 F.3d 903, 908 (9th Cir. 2003)
- Tunac v. United States, 897 F.3d 1197, 1207 (9th Cir. 2018)
- Coto Settlement v. Eisenberg, 593 F.3d 1031, 1038 (9th Cir. 2010)